

brain cancer, pediatric renal disorders, glaucoma, sickle cell anemia, spinal cord injury, arthritis, a variety of mental health disorders, hepatitis, deafness, stroke, Alzheimer's, spinal muscular atrophy, amyotrophic lateral sclerosis—commonly known as Lou Gehrig's Disease—diabetes, breast cancer, ovarian cancer, multiple myeloma, pancreatic cancer, head and neck cancer, lung cancer, multiple sclerosis, macular degeneration, heart disease, infant sudden death syndrome, schizophrenia, polycystic kidney disease, Cooley's anemia, stroke, primary immune deficiency disorders.

The tragic aspect of these deadly diseases is that they could all be cured, I do believe, if we had sufficient funding. Continuing my Chairmanship will permit me to fight for increased dollars to find these cures.

STEM CELLS

In December of 1998, I held the first Congressional hearing on the issue of human embryonic stem cells. The Labor, HHS, Education Subcommittee provides funding for biomedical research at the NIH. At that time, no federal funds were going to this critical research. As Chairman, I have been able to focus attention on the promise of these stem cells to alleviate suffering and save lives. In 2004, NIH funded \$24.2 million in the area of human embryonic stem cell research. I continue to lead the effort to provide additional funding for stem cell research without arbitrary restrictions. To continue to focus attention and provide resources for the incredible potential of stem cell research to save lives, it is critical for me to remain as Chairman of the Labor, HHS, Education Subcommittee.

WOMEN'S HEALTH

I have long held a strong interest in issues related to the health of women. As Chairman, I supported the creation of an Office of Women's Health at the NIH to ensure adequate research into diseases and maladies affecting women; supported the funding of the first Healthy Start Demonstration sites to improve the health of pregnant women and their babies, now funded at \$104 million; supported increases in family planning programs, funded at \$288 million this year, that empower women to make healthy reproductive decisions; and supported increases in rape prevention and domestic violence prevention. These programs remain important to me. To continue to nurture these programs, it is important for me to remain as Chairman of the Labor, HHS, Education Subcommittee.

CENTERS FOR DISEASE CONTROL AND PREVENTION

In 2000, I visited the Centers for Disease Control & Prevention headquarters in Atlanta, GA. I was surprised by the dilapidated state of the buildings where you had eminent scientists working in deplorable conditions. Expensive scientific equipment was housed in hallways and under leaky roofs. At that time, funding for facilities at CDC was only \$17.8 million. The Labor, HHS, Education Subcommittee began to focus resources in 2001 to reconstruct the infrastructure of the CDC, whose critical public health mission is to protect the American people from outbreaks of disease. In 2001, we were able to provide \$175 million and we have provided over \$250 million in each of the last three years. This effort continues as several substandard facilities remain. To continue to provide the resources for critical infrastructure at the CDC, it is important for me to remain as Chairman of the Labor, HHS, Education Subcommittee.

WORKER PROTECTION

The Labor, HHS, Education Appropriations Subcommittee has jurisdiction over the prin-

cipal federal agencies responsible for protecting the American workforce. These "worker protection" agencies include: The Occupational Safety and Health Administration, the Mine Safety and Health Administration, and the National Labor Relations Board. The jurisdiction also includes the Employment Standards Administration, which is charged with enforcing minimum wage and overtime laws, child labor protection, and administering workers' compensation benefits. In addition, the Employee Benefits Security Administration oversees private pension, health and welfare plans, and would administer proposed Association Health Plan legislation to assist small businesses in purchasing affordable health coverage. Under the leadership of Tom Harkin and myself, we provided \$1.5 billion for these agencies this year. Continuing my partnership with Senator Harkin will ensure sufficient dollars will be available to protect this nation's workers.

ASBESTOS

As Chairman of the Senate Judiciary Committee, I have a longstanding commitment to crafting a legislative solution on asbestos compensation, and once enacted, to ensuring that it is expeditiously implemented. As chairman of the Labor-HHS-Ed Subcommittee which oversees funding for the Department of Labor, I will be in the unique position to ensure that an administrative system is established promptly, and that claims are processed fairly.

EDUCATION

In the area of education, I know from personal experience the opportunities that are created through a high-quality education. As a Senator, I have sought to make the American dream a possibility for each and every American, whether it means great public schools for America's children, affordable alternatives at our Nation's outstanding colleges and universities, high-quality career and technical education programs, or investments in Head Start and other early care and development programs.

In my role as Ranking Member or Chairman of the Labor-HHS-Education Appropriations Subcommittee, I have helped increase the budget of the U.S. Department of Education from \$24.7 billion in FY95 to \$56.6 billion in FY05, an increase of 129 percent. This was made possible by the strong, bi-partisan working relationship I have with Senator Tom Harkin, my partner on the subcommittee.

NO CHILD LEFT BEHIND

Since 1995, the Subcommittee has increased Federal support for K-12 education by more than 100 percent, and most of the increases have been provided in programs that provide significant flexibility to States and local schools so they can direct funds to the areas that will best support improved student achievement and to eliminate the achievement gap in this country. Today under the No Child Left Behind funding is \$24.4 billion, up more than 40 percent or \$7 billion, since the Act was passed by Congress in December 2001. As Chairman of the Labor, HHS, Education Appropriations Subcommittee, I am proud to have played a part in the many positive developments in the area of education, but more work needs to be done.

I believe that the future of the United States will be shaped by the minds, skills and abilities of today's students, and it is my hope and intent to help make sure that they are prepared to make that future even brighter than it is today.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

We have made substantial progress in meeting our obligations under the Individ-

uals with Disabilities Education Act. When the law was enacted in 1975, the Federal Government promised to be a 40 percent partner in meeting the extra costs associated with improving educational opportunities for students with disabilities. For the first 20 years after the law was signed, the Federal contribution hovered around 8 to 9 percent. I am proud to report that over the past 10 years we have improved on that record by raising the Federal contribution from 8 percent to 19 percent almost halfway to the 40 percent goal. As Chairman, along with my partner Tom Harkin, we will continue to ensure that the Federal contribution continues to increase and that students with disabilities are assessed with suitable tests, provided the supports they need to achieve at the best of their ability, and supported in their transition to employment and further education.

PELL GRANTS

During the past decade, the Pell Grant program has helped millions of students with the cost of furthering their education. By raising the Pell Grant maximum award to \$4,050 in FY'05, up \$1,710 over the FY'95 award maximum, millions of low and middle income students have received more grant aid that assists them with the increasing price of a post-secondary education. Appropriated funds have more than doubled over the FY'95 level, and, as a result, more than 5.3 million students currently receive grant assistance to make post-secondary education more affordable. As Chairman, I will continue to make sure that every qualified student desiring to attend college can afford to do so and work in a profession of his or her choosing, without overbearing student loan payments.

CONCLUSION

Continuing my Chairmanship on the Labor, HHS, and Education Subcommittee will give me the opportunity to continue to target funds to programs and projects that are of great value to the State of Pennsylvania. These dollars have created jobs; increased the biomedical infrastructure of the State making it more competitive; provided health care facilities and supported seed monies for local programs related to abstinence, mental health, education and bioterrorism.

I have been contacted by 281 individuals or organizations requesting that I continue my Chairmanship. The reasons for their requests are many: labor groups are asking for my continued support on worker protection programs; biomedical research groups are asking me to once again champion increased medical research dollars; women's groups are requesting my continued support for women's health and family planning programs; education groups urge me to continue to increase Federal support for elementary, secondary and higher education.

The Chairman of the Labor, HHS, and Education Subcommittee will face many challenges in this Congress. The most difficult will be finding funding for the Congressional and Presidential priorities within the current fiscal environment and achieving the proper balance so that all priorities can be met.

Continuing my Chairmanship would afford me the opportunity to protect the programs and priorities that I have long championed.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair states to all Senators present, I was giving some leeway as the morning business continued. I will now close

morning business. Morning business is closed.

CLASS ACTION FAIRNESS ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 5, which the clerk will report.

The bill clerk read as follows:

A bill (S. 5) to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants, and for other purposes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, as the Presiding Officer has noted, we are continuing consideration of class action reform. Yesterday, we had opening statements, which I led off as chairman of the Judiciary Committee, and the ranking member, Senator LEAHY, made his opening statement. Senator HATCH spoke. We will be going to an amendment this morning by Senator DURBIN on mass actions.

The class action bill has as its central focus to prevent judge shopping to various States and even counties where courts and judges have a prejudicial predisposition on cases. The issue of diversity of citizenship has been created in the Federal courts to eliminate favoritism. When diversity jurisdiction was established, it was undertaken in the context of the claimant from one State, illustratively, Virginia coming to Pennsylvania, and the concern there was there might be some favoritism for the local resident in Pennsylvania. So the jurisdictional amount, when I was in the practice of law, was \$3,000. It is now \$75,000 which would put the case in the Federal court where there would be more objectivity. That is what they are trying to do here, to eliminate judge shopping.

If the cases which stay in the State court have two-thirds of the class from that State, it would go into the Federal court. If one-third or less is not from the State—in the one-third to two-third range—it would be the discretion of the judge.

As I said yesterday, there is, as far as I am concerned, a very important purpose here: to put cases in the Federal court to avoid forum shopping and judge shopping.

With respect to the substantive law, it is my view that the substantive law ought not to be altered. I commented briefly on the Bingham amendment yesterday where I think it is important that the Federal judges who have the cases would have the discretion to apply State law. But that will be taken up sometime when we debate the matter later.

I want to yield now to Senator MCCONNELL for leadership time or time as he may choose.

Mr. MCCONNELL. Mr. President, I thank the chairman of the Judiciary Committee.

I rise to speak about a case that I believe perfectly illustrates some of the problems with our current class action system. This case is, unfortunately, not at all unique. These outrageous decisions happen all too frequently. The bill currently under consideration will help fix some of these problems.

I have a chart. It is kind of hard to see. Basically, it is a letter that a member of my staff recently got. It included a check. The check is made payable to a member of my staff who received it in the mail. On the check's "Pay to the Order of" line, I have covered up the name of the staffer so she may remain anonymous.

I also obscured the name of the defendant in this case. Plaintiffs' lawyers have already soaked them once, and I do not want to give them the opportunity to do it again. I would hate to see others able to sue the company because they heard the company settled at least one class action lawsuit.

Along with this settlement check, my staffer received a letter which says in part:

You have been identified as a member of the class of . . . customers who are eligible for a refund under the terms of a settlement agreement reached in a class-action lawsuit . . . The enclosed check includes any refunds for which you were eligible.

Imagine her excitement. As you know, Senate staffers are certainly not the highest paid people in town. So this woman on my staff told me she was, indeed, thrilled to anticipate what she might be receiving. And then she looked at the enclosed check to see just how big her windfall was. It was a whopping 32 cents. That is right, she received a check made out to her in the amount of 32 cents. I guess it goes without saying that she was a little bit disappointed to find out her newfound riches had disappeared already.

Do not misunderstand me. I am not suggesting my staffer deserved a bigger settlement check. In fact, she told me she had no complaint against the defendant, and she never asked to be a part of the lawsuit. Apparently, she just happened to be a customer of the company that was sued, and it was determined that she theoretically could bring a claim against the defendant. So she became a member of "a class" who was due a settlement.

If this does not precisely illustrate the absurdity of the current class action epidemic in this country, I do not know what does. To demonstrate just how far out of whack the system is, let's start with the letter notifying my staffer that she was a member of a class action lawsuit and had been awarded a settlement.

This letter and check arrived via the U.S. mail. The last time I checked, it cost 37 cents to send an envelope through the U.S. mail. The settlement check is only for 32 cents. You can probably see where I am headed with this. It cost the defendant in a class action suit 37 cents to send a settlement check worth 32 cents. I don't have the

expertise in economics like my good friend and our former colleague Senator GRAMM of Texas, but I can tell you, forcing a defendant to spend 37 cents to send somebody a 32-cent check does not make much economic sense, and it certainly defies common sense.

Let me point out the most disturbing element about this lawsuit. My staffer researched this case, and it may be of interest to all of our colleagues to note that the unwitting plaintiff received 32 cents in compensation from this class action lawsuit, and her lawyers pocketed in excess of \$7 million—\$7 million. All in all, not a bad settlement if you happen to be a plaintiff's lawyer rather than a plaintiff.

And in case you think my staffer received an unusually low settlement in this litigation, let me quote from the letter accompanying the settlement check:

At the time of the settlement, we estimated that the average [refund] would be less than \$1—

The average refund would be less than a dollar—

for each eligible [plaintiff]. That estimate proved correct.

So you see, while the settlement was being arranged, it was clear each plaintiff on average would receive less than \$1. It was clear that each plaintiff would receive less than \$1. Yet the plaintiffs' lawyers still rake in more than \$7 million.

My colleagues may also be interested to know how much the defendant was forced to spend defending the lawsuit. Knowing the extent of the defense costs is instructive in demonstrating how unjust these abusive suits can be. So we asked the defendant how much it spent defending this suit that provided each plaintiff with pennies and the lawyers with millions. Perhaps not surprisingly, the defendant was not willing to discuss the matter. You see, the defendant told us that if it were readily known just how much they spent defending the suit, then that information would almost certainly be used against them in the future. The defendant feared that if their defense costs were known, then another opportunistic plaintiff's lawyer would file another one of these predatory suits, and then that lawyer would offer to settle for just slightly less than the millions he knew it would cost the defendant to defend the suit.

This case illustrates how plaintiffs' lawyers exploit and abuse defendants under the current system. Can there be any doubt that the current class action system is in need of repair? When the lawyers get more than \$7 million and the plaintiff gets a check for 32 cents, something is terribly wrong. When defendants fear to disclose how much they spend fighting these ridiculous suits because to do so would invite even more litigation, something is terribly wrong. Justice is supposed to be distributed fairly. This is clearly not a fair way to distribute justice.

By passing this legislation, we are not going to end every 32-cent award to